EXHIBIT 2003

to

PATENT OWNER DISPOSITION SERVICES, LLC'S
PRELIMINARY RESPONSE

in

Case CBM2013-00040
Patent 5,424,944

112TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 112–98
Part 1

AMERICA INVENTS ACT

JUNE 1, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. SMITH of Texas, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

DISSENTING VIEWS AND ADDITIONAL VIEWS

[To accompany H.R. 1249]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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99–006

Transitional program for covered business method patents

A number of patent observers believe the issuance of poor business-method patents during the late 1990's through the early 2000's led to the patent "troll" lawsuits that compelled the Committee to launch the patent reform project 6 years ago. At the time, the USPTO lacked a sufficient number of examiners with expertise in the relevant art area. Compounding this problem, there was a dearth of available prior art to assist examiners as they reviewed business method applications. Critics also note that most countries do not grant patents for business methods.

The Act responds to the problem by creating a transitional program 1 year after enactment of the bill to implement a provisional post-grant proceeding for review of the validity of any business method patent. In contrast to the era of the late 1990's-early 2000's, examiners will review the best prior art available. A petition to initiate a review will not be granted unless the petitioner is first sued for infringement or is accused of infringement. The program otherwise generally functions on the same terms as other post-grant proceedings initiated pursuant to the bill. Any party may request a stay of a civil action if a related post-grant proceeding is granted. The program sunsets after 10 years, which ensures that patent holders cannot delay filing a lawsuit over a shorter time period to avoid reevaluation under the transitional program.

Jurisdictional and procedural matters

a) State court jurisdiction and the US Court of Appeals for the Federal Circuit

The US district courts area given original jurisdiction to hear patent cases,[57] while the US Court of Appeals for the Federal Circuit adjudicates all patent appeals.[58] The Supreme Court ruled in 2002,[59] however, that patent counterclaims do not give the Federal Circuit appellate jurisdiction over a case.

The Act clarifies the jurisdiction of the US district courts and stipulates that the US Court of Appeals for the Federal Circuit has jurisdiction over appeals involving *compulsory* patent counterclaims. The legislative history of this provision, which we reaffirm and adopt as our own, appears in the Committee Report accompanying H.R. 2955 from the 109th Congress,[60] which the Committee reported favorably to the House on April 5, 2006.

b) Joinder

The Act also addresses problems occasioned by the joinder of defendants (sometimes numbering in the dozens) who have tenuous connections to the underlying disputes in patent infringement suits.

The Act amends chapter 29 of the Patent Act by creating a new § 299 that addresses joinder under Rule 20 and consolidation of trials under Rule 42. Pursuant to the provision, parties who are accused infringers in most patent suits may be joined as defendants

[57] 28 USC § 1338.
[58] 28 USC § 1295.
[59] *Holmes Group, Inc., v. Vornado Air Circulation Systems, Inc.* 535 U.S. 826 (2002).
[60] H. Rep. 109–405.